

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chelsea Yogerst	Team: Squad #12	CCRB Case #: 201603650	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/28/2016 7:25 AM	Location of Incident: § 87(2)(b)	Precinct: 76	18 Mo. SOL 10/28/2017	EO SOL 10/28/2017	
Date/Time CV Reported Thu, 04/28/2016 12:50 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/28/2016 12:50 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Christophe Heredia	01339	938656	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Antoyne Chess	00162	938218	WARRSEC
2. DT1 David Cumming	02529	883244	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Christophe Heredia	Abuse: Detective Christopher Heredia entered and searched § 87(2)(b).	§ 87(2)(b)

Case Summary

On April 28, 2016, § 87(2)(b) filed this complaint with the CCRB via telephone.

On April 28, 2016, at approximately 7:25 a.m., Detective Antoyne Chess and Detective Christopher Heredia, both of the Manhattan Warrant section, arrived at § 87(2)(b)'s apartment at § 87(2)(b), in Brooklyn. DT Heredia entered and allegedly searched the apartment (**Allegation A**).

There is no video evidence for this case.

Mediation, Civil and Criminal Histories

- § 87(2)(b) accepted mediation § 87(2)(g)
- § 87(2)(b) did not file a Notice of Claim (07 BR).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officers CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (10 BR).
- DT Christopher Heredia has been a member of the service for 11 years and has six allegations in three cases. Among these allegations, there are no substantiated allegations § 87(2)(g). § 87(2)(g), § 87(4-b)

Findings and Recommendation

Explanation of Subject Officer Identification

§ 87(2)(b) stated that two officers responded to her residence, one of which entered. She described the officer that did not enter her apartment as a black male, with dark-skin, 5'5" tall, built body build, in his forties, and who wore reading glasses with black frames. She believed this officer's name was PO Chester because he verbally provided it during the incident. This is consistent with the physical pedigree information of DT Chess. She described the officer that entered into her apartment as mixed-raced male, with light complexion, fair skin, 5'9" tall, average body build, black curly hair and who appeared to be forty-three or forty-four years old. This is consistent with the physical pedigree information of DT Heredia. § 87(2)(g)

Recommendations

Allegation A-Abuse of Authority: Detective Christopher Heredia entered and searched § 87(2)(b) in Brooklyn.

It is undisputed that DT Heredia entered § 87(2)(b) in Brooklyn. § 87(2)(g)

§ 87(2)(b) stated that she and her § 87(2)(b)-year old daughter § 87(2)(b) were asleep in their residence when they were awoken by a loud knock and the sound of “police” being yelled through the front door. § 87(2)(b) looked through the peephole and observed DT Heredia and DT Chess. § 87(2)(b) asked the officers to identify themselves and in response, they both held up their badges and informed § 87(2)(b) that they had a warrant. Once she opened the front door, DT Heredia asked her if she knew an individual named § 87(2)(b) and if he lived there because they had a warrant for him. § 87(2)(b) explained to the officers that she did not know anyone named § 87(2)(b). DT Heredia told § 87(2)(b) that he was there because he had a search warrant and needed to check her apartment. In response, § 87(2)(b) said, “Check my apartment?” DT Heredia repeated that they had a warrant. When DT Heredia asked her if she would walk him through the apartment, § 87(2)(b) told him she would not because she wanted to use her body to keep the front door of the apartment open so that § 87(2)(b) could easily escape if anything were to happen.

DT Heredia entered into § 87(2)(b)'s apartment with the warrant. § 87(2)(b) denied that the officers asked for permission to enter the apartment and denied that she granted the officers permission to enter her apartment. DT Heredia walked down the hallway in the direction the bedrooms, a living room, and a bathroom in the rear of the apartment. Although she was unable to see DT Heredia enter into the rooms, § 87(2)(b) knew that he did because once the officers left, she noticed that the doors for these rooms were open. She denied that anything in the rooms had been disturbed.

While DT Heredia was looking through the apartment, § 87(2)(b) remained holding the front door of her apartment open using her back. DT Chess stood immediately outside front door frame in the hallway and never entered into the apartment. When DT Chess asked § 87(2)(b) how long he had been living in the apartment, she told him that she had been living there for five years. DT Chess told her that it is possible that the person they were looking for used to live there. Once DT Heredia had been in the back of the apartment for approximately ten minutes, he returned and immediately left the apartment with DT Chess.

§ 87(2)(g) § 87(2)(b) stated that when DT Heredia presented § 87(2)(b) with the warrant, § 87(2)(b) told him that he was not going enter her residence because § 87(2)(b) was only § 87(2)(b) years old. DT Heredia told § 87(2)(b) that he understood, but still needed to check her residence. In response, § 87(2)(b) said, “No.” When DT Heredia told § 87(2)(b) that he had a warrant, § 87(2)(b) told him that she was not going to let him ruin her house. DT Heredia asked § 87(2)(b) to allow him for permission to look in her residence for a minute. § 87(2)(b) could not recall what § 87(2)(b) said in response. Once inside the residence, § 87(2)(b) followed DT Heredia to the back of the apartment and observed him looking into both bedrooms and the bathroom. She was unable to see where DT Heredia looked within each room specifically.

DT Cumming testified that he and DT Heredia responded to § 87(2)(b), to find out if § 87(2)(b) and § 87(2)(b) § 87(2)(b) were living with there with § 87(2)(b) § 87(2)(b)'s sister § 87(2)(b). Both § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) had warrants out for their arrests. Although DT Chess responded to the location, he remained in the vehicle with an individual he had just apprehended.

DT Cumming was assigned § 87(2)(b) and § 87(2)(b)'s warrants so that he could assist DT Alhidami in his investigation. When DT Cumming reviewed DT Alhidami's investigative steps, he observed that DT Alhidami had conducted a HRA check, which provided § 87(2)(b)'s electronic benefit transactions. These transactions showed that she had been purchasing items at stores on § 87(2)(b). DT Cumming called the housing wheel and obtained § 87(2)(b)'s address, § 87(2)(b). He was also provided with the address for their other sister, who had relocated from § 87(2)(b) to § 87(2)(b). When DT Cumming inquired about § 87(2)(b) he was informed that she had previously resided at § 87(2)(b). DT Cumming was not informed and did not have any paperwork that indicated that § 87(2)(b) or § 87(2)(b) resided at § 87(2)(b). DT Cumming denied that he responded to the location listed on § 87(2)(b)'s arrest warrant, which listed § 87(2)(b).

Once they responded to the apartment, DT Cumming and DT Heredia identified themselves to § 87(2)(b) and explained to her that both § 87(2)(b) and § 87(2)(b) had warrants out for their arrests and they were trying to locate them. They also informed her that they needed to verify if they lived with her. § 87(2)(b) was apprehensive, loud and immediately began to get antsy. § 87(2)(b) did not respond to the questions she was asked and did not inform the officers if she knew § 87(2)(b) or § 87(2)(b). She also did not indicate whether or not they resided with her or whether she knew where they were. DT Cumming showed § 87(2)(b) the arrest warrants he had for § 87(2)(b) and § 87(2)(b). § 87(2)(b) looked at them, but did not say anything. DT Cumming denied that they informed § 87(2)(b) that they were looking for an individual named § 87(2)(b). During the interview, DT Cumming was presented with § 87(2)(b)'s arrest warrant, but he did not recognize the warrant or the name § 87(2)(b).

DT Cumming asked § 87(2)(b) if she could come in and take a visual of her apartment. § 87(2)(b) moved back away from the door as to indicate that they could enter. DT Cumming then asked § 87(2)(b) if he could show her the way. § 87(2)(b) said, "Come in" and allowed the officers to enter. DT Cumming did not recall hearing or observing anything that indicated someone else was in the apartment prior to them entering. When he was asked what led him to believe that the individuals were present inside § 87(2)(b)'s apartment at the time of the incident, he stated that he did not know that the individuals were present. DT Cumming denied that they conducted any surveillance prior to entering into the apartment and denied that they spoke to any neighbors. DT Cumming entered into the apartment to take a visual and to see if there were any other individuals in the apartment that § 87(2)(b) had not informed them about. He denied that there was any other reason why he entered at that time.

DT Cumming entered the apartment first, followed by DT Heredia. DT Cumming did not recall § 87(2)(b) getting upset or objecting to the officers' entry. Once inside the apartment, DT Cumming and DT Heredia walked into the living room. DT Cumming did not recall going anywhere or seeing DT Heredia go anywhere other than the living room. He denied searching the apartment and did not recall if DT Heredia searching anywhere in the apartment.

Once inside the residence, DT Cumming attempted to ask § 87(2)(b) how § 87(2)(b) and § 87(2)(b) could be located. During that time, a young girl entered the living room and stood near § 87(2)(b). § 87(2)(b)'s demeanor changed and she suddenly became worried that the

officers would scare her daughter. § 87(2)(b) began to scream and told the officers that they had to leave her and that she did not want them there because she had to go to work. As soon as § 87(2)(b) told the officers to leave, they exited the apartment. DT Cumming did not know if there were any other individuals inside the apartment because they did not go any further than the living room.

§ 87(2)(g)
DT Heredia testified that when they responded to the apartment, § 87(2)(b) appeared agitated and unhappy, although he did not recall what led him to believe that. He also stated that once inside the apartment, he remained by the front door and did not move from where he was positioned. DT Chess maintained that he responded to § 87(2)(b) in Brooklyn but remained in the vehicle while DT Heredia and DT Cumming responded to the apartment. He denied that he discussed with his partners what they planned on doing once they arrived to the apartment and was unable to see his partners once they entered into the building. He denied observing anything that indicated that someone was present within the apartment and did not recall having a discussion with DT Cumming or DT Heredia about what occurred once they responded to the apartment.

The warrant (12 BR) shows that there was an active bench warrant for § 87(2)(b), which was issued on § 87(2)(b). The arrest warrant lists § 87(2)(b) in Brooklyn as § 87(2)(b) residence address.

Generally, officers entering a residence to perform an arrest must possess a warrant. According to Payton v. New York, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within (04 BR). CPL 120.80 states that without a search warrant or exigent circumstances, an officer can search the location only to the extent necessary to identify and safely arrest the subject of the search warrant (01 BR). However, as stated in CPL 120.80 and affirmed by People v. Cabral, a police officer with an arrest warrant may only enter the defendant's residence if he has reasonable belief that the defendant is present at the time of the arrest warrant execution (03 BR).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted].

Squad: 12

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date